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opinion

July 12, 1957

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CONCORD, N.H.

Honorable Lane Dwinell
Governor of New Hampshire
Concord, New Hampshire

Dear Governor Dwinell:

You have requested an opinion from this office on Senate Bill 126 with particular reference to the third sentence which reads as follows:

"In addition thereto a request made either to the Division of Personnel or the Governor and Council for the reclassification or reallocation of positions to different class series shall be considered as a request for a new position and shall require the approval of the Governor and Council."

You have asked whether the language in this sentence precludes promotions within a series or the filling of vacancies in existing positions except through Governor and Council approval. Under the rules of the Division of Personnel class series is defined as:

"the grouping of two or more classes that are the same in nature but different in degree and level."

With this in mind it appears to us that promotions within the same class series and the filling of vacancies in existing positions is to be handled in the future the same as it has been in the past. This legislation, in effect, prohibits the reclassification into a different class series without Governor and Council approval. The Legislature has said that to reclassify into a different class series is to create a new position and under this bill all new positions must be approved by the Governor and Council.

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You have also asked what limitations or extensions of existing administrative procedure is to be interpreted from this bill. Under this bill a request for reclassification or reallocation of positions to a different class series must be submitted to the Governor and Council for their approval and may not be approved by the Division of Personnel.

Very truly yours,

Arthur E. Bean, Jr.
Assistant Attorney General

AEB,Jr/w